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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,282	08/01/2001	Richard Cerami	020366-077210US	5330
20350	7590	12/08/2003	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			TODD, GREGORY G	
		ART UNIT		PAPER NUMBER
		2157		/0
DATE MAILED: 12/08/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/921,282	CERAMI ET AL.
	Examiner Gregory G Todd	Art Unit 2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 August 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 March 2002 is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>9</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a first office action in response to application filed, with the above serial number, on 01 August 2001 in which claims 1-19 are presented for examination. Claims 1-19 are therefore pending in the application and are granted priority date of 01 August 2000.

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: In claim 14, Very High Bandwidth DSL.
2. The disclosure is objected to because of the following informalities: Paragraph 51 line 7 discloses "DLSLAM" which is suggested to be replaced with "DSLAM".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 1 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the

invention. A logical inventory is not described in the specification sufficiently to enable one skilled in the art to limit the claims accordingly. How the physical network inventory differentiates from the logical or virtual inventory and the planned inventory is not defined in the specification, and further how the logical inventory is to be self-discovered.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. A logical network inventory is indefinite and not defined in the specification.

7. Claims 1 and 8 recite the limitation "the synchronized physical network inventory" in line 11. There is insufficient antecedent basis for this limitation in the claim. It is unclear as to whether each inventory is viewed or only the requested network element inventory.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1, 3-13, and 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Bowman-Amuah (hereinafter "Bowman", 6,611,867).
10. As per Claim 1, Bowman discloses a method for managing; a network element inventory for a video and data network comprising:

self-discovering a physical network inventory of the video and data network (network inventory management; config. adds / changes / deletes) (at least col. Fig. 30; col. 71 line 57 - col. 72 line 7);

self-discovering a logical network inventory of the video and data network (capacity available from network inventory) (at least col. 71, lines 22-31; Fig. 28);

providing a planned network inventory of the video and data network (planned network capacity) (at least col. 70, lines 60-65; Fig. 26);

loading the physical network inventory, logical network inventory, and planned network inventory into the network element inventory (network provisioning to include installed configuration with identifiers) (at least col. 71, lines 42-49);

synchronizing the physical network inventory, logical network inventory, and planned network inventory in the network element inventory (reconfiguration of the network) (at least col. 71, lines 49-52; Fig. 16-17; also col. 56, lines 3-67);

receiving a request for a view of the network element inventory (at least col. 58, lines 33-48); and

providing the view using the synchronized physical network inventory, logical network inventory, and planned network inventory (presenting in browser) (at least col. 58, lines 33-48; col. 55, lines 1-6). X

11. As per Claim 3, 15.

wherein the video and data network comprises a Digital Subscriber Line (xDSL) network (at least Fig. 51; col. 20 lines 40-50).

12. As per Claim 4, 16.

wherein the planned network inventory comprises planned virtual network inventory (planned logical network configuration) (at least col. 70, lines 60-65).

13. As per Claim 5, 17.

wherein the planned network inventory comprises planned physical network inventory (planned network capacity) (at least col. 70, lines 60-65).

14. As per Claim 6, 18.

wherein synchronizing the physical network inventory, logical network inventory, and planned network inventory comprises comparing the planned network inventory with the self-discovered physical and logical network inventory (comparing level of service) (at least col. 56, lines 3-67, especially lines 45-67).

15. As per Claim 7, 19.

further comprising creating a repair ticket if the comparison of the planned network inventory with the self-discovered physical and logical network inventory is not substantially equal (alarm creating ticket) (at least col. 55, lines 15-25, 41-49; col. 56, lines 17-28).

16. As per Claim 8, Bowman discloses a method for managing a network element inventory between one or more operation systems for a video and data network comprising:

self-discovering a physical network inventory of the video and data network (network inventory management; config. adds / changes / deletes) (at least col. Fig. 30; col. 71 line 57 - col. 72 line 7);

self-discovering a logical network inventory of the video and data network (capacity available from network inventory) (at least col. 71, lines 22-31; Fig. 28);

providing a planned network inventory of the video and data network (planned network capacity) (at least col. 70, lines 60-65; Fig. 26);

loading the physical network inventory, logical network inventory, and planned network inventory into the network element inventory (network provisioning to include installed configuration with identifiers) (at least col. 71, lines 42-49);

synchronizing the physical network inventory, logical network inventory, and planned network inventory in the network element inventory (reconfiguration of the network) (at least col. 71, lines 49-52; Fig. 16-17; also col. 56, lines 3-67);

creating one or more views of the network element inventory using the synchronized physical network inventory, the logical network inventory, and the planned network inventory for the one or more operation systems (presenting in browser to operators) (at least col. 58, lines 33-48; col. 55, lines 1-6);

providing the one or more views to the one or more operation systems (presenting in browser) (at least col. 58, lines 33-48; col. 55, lines 1-6).

17. As per Claim 9.

further comprising receiving an update of self-discovered physical, self discovered logical, and planned inventory (continuously monitored analysis) (at least col. 56, lines 3-9; Fig. 16-17).

18. As per Claim 10.

further comprising re-synchronizing the physical network inventory, logical network inventory, and planned network inventory in the network element inventory with the update of self-discovered physical, self discovered logical, and planned inventory (continuously monitored analysis) (at least col. 56, lines 3-9; Fig. 16-17).

19. As per Claim 11.

further comprising creating one or more views of the re-synchronized network element inventory for the one or more operation systems (threshold manager residing on workstation being retrieved) (at least col. 56, lines 3-9; col. 58, lines 33-48; col. 55, lines 1-6).

20. As per Claim 12.

further comprising providing the one or more views using the re-synchronized physical network inventory, logical network inventory, and planned network inventory (threshold manager residing on workstation and being examined) (at least col. 56, lines 3-9; col. 58, lines 33-48; col. 55, lines 1-6).

21. As per Claim 13.

Bowman fails wherein the operation systems comprise sales, engineering, and marketing systems (at least col. 55, lines 1-6; col. 14, lines 43-50; Fig. 1C-1, 1E-1).

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claims 2 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowman in view of Wetzel (hereinafter "Wetzel", 6,388,990).

Bowman fails to explicitly disclose wherein the video and data network comprises a Very high bit rate Digital Subscriber Line (VDSL) network. Bowman does disclose using next generation networks and xDSL networks (at least Fig. 51; col. 20, lines 19-59). However, using certain xDSL technologies such as VDSL is disclose by Wetzel (at least col. 2, lines 18-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of VDSL into Bowman's system as Bowman discloses using a next generation network, suggesting higher bandwidth networks, as the medium for communications and as Wetzel discloses VDSL as being a variation of xDSL for future networks.

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Weber et al, Sundaresan et al, Yim et al, Mukaiyama et al, Bhagavath et al, McGhee, and Aravamudan are cited for disclosing pertinent information related to the claimed invention. Applicants are requested to consider the prior art reference for relevant teachings when responding to this office action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory G Todd whose telephone number is (703)305-5343. The examiner can normally be reached on Monday - Friday 9:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703)308-7562. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Gregory Todd

Patent Examiner
Technology Center 2100


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